

APPEAL NO. 030188
FILED FEBRUARY 12, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 22, 2002. The hearing officer determined that the appellant's (claimant) compensable injury of _____, does not extend to and include an injury to the L3-4, L4-5, and L5-S1 levels of her lumbar spine. The claimant appealed on several evidentiary bases, and we reversed and remanded the case by our decision in Texas Workers' Compensation Commission Appeal No. 022990, decided December 12, 2002, because the hearing officer apparently considered an addendum to the peer review doctor's report which was not admitted during the October CCH, nor included among the exhibits that were provided with the record. The remand directions were to "consider only the evidence that was properly admitted during the CCH in making his extent-of-injury determination." The hearing officer prepared a new decision and order without conducting any further hearing. He again determined that the claimant's compensable injury of _____, does not extend to and include an injury to the L3-4, L4-5, and L5-S1 levels of her lumbar spine. The claimant again appeals, essentially taking issue with the way that the hearing officer evaluated and gave weight to the evidence. The respondent (carrier) replied, urging affirmance. There is a further submission from the claimant, replying to the carrier's response.

DECISION

Affirmed.

The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer resolves the conflicts and inconsistencies in the medical evidence and judges the weight to be given to expert medical testimony. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). To this end, the hearing officer, as fact finder, may believe all, part, or none of the testimony of any witness. The testimony of a claimant as an interested party raises only an issue of fact for the hearing officer to resolve. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). When reviewing a hearing officer's decision we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). We do not find it to be so in this case.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Michael B. McShane
Appeals Panel
Manager/Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Edward Vilano
Appeals Judge